

**AMESBURY ZONING BOARD
AMESBURY CITY HALL AUDITORIUM
THURSDAY, FEBRUARY 28, 2013**

MEETING CALLED TO ORDER AT 7:05 P.M.

PRESENT: Matt Sherrill (Chair), Olyce Moore, Donna Collins, Sharon McDermott and Ben Osgood.

ABSENT: Bill Lavoie and Bob Orem.

ALSO PRESENT: Susan Yeames, recording secretary

MINUTES: January 24, 2013 – Motion by Commissioner Collins to accept the minutes. Motion is seconded by Commissioner McDermott. Abstaining were Commissioners Orem and Moore. Vote to accept minutes passed.

REQUEST FOR EXTENSION:

**Amesbury Heights, 36 Haverhill Road, for the Comprehension Permit
(Boston North Properties)**

Claire Burhoe, representing Boston North Properties, LLC.

A comprehensive permit was issued for the Amesbury Heights project, which is due to expire on April 5, 2013. We are in discussions with developers now, so we feel confident that within the next two years, there should be a definitive answer on whether or not we can do this project. Consequently, we'd like to request another two year extension.

Matt Sherrill: I got this letter a while ago and given it a lot of thought. Your project is the only project that has requested this many extensions. I understand this project is important to the city. My problem is that it was modified from a 72 month, now you're requesting us to modify it to a 96 month extension. I have a problem with that. I'd like the board to consider a 6 month extension, then you come back to us with a plan that shows that you are actually going to do something, then we at that point would consider giving you the other 18 months that you're looking for. I fear that in 2 years, you'll be back before us looking for another extension, because the climate still isn't good. But if you have no timetable that puts a little more pressure on you as a developer, to prove to this board that you're serious about this project, that it'll float in limbo for another 2 years. How do you feel about a 6 month, then come back to us with a plan that shows the board that all the players are in place and we're ready to go.

Claire Burhoe: I think 6 months is too short. I also want to discuss this with the owner. Maybe it would be appropriate to continue this to the next meeting date. The permit expires April 5, so there is a meeting in March prior to expiration. How do you feel about a year extension?

Matt Sherrill: If I consider a year, do you feel as though you're going to come back to us in March, and a year is offered on the table, do you think you can come back with a plan that shows movement on your end.

Claire Burhoe: I guess it depends on what extent of a plan you'd be looking for. I'd want to clarify that.

Matt Sherrill: I envision these things: this is who we've been talking to, financing is in progress, we've applied for, these are the contractors we've been talking to... etc. We don't need signed contracts. I just want to know you are negotiating with people to move this project forward. This is way beyond any extension we've ever seen. I'll give you a year, but in March,

we'd agree if the property owner agrees, then you'd return in February, 2014, you'd come in with a plan and proof of tangible progress.

Vote to extend this request to our next meeting, when they come back with an answer as to if they accept our one year extension. All in favor.

Chester and Cynthia Conant- Special Permit / finding

Looking to expand a second floor living space at 485 Main Street in an R20 Zoning District, Precinct 1. Board consists of Olyce, Donna, Matt, Sharon and Ben.

Scott Brown, architect: The Conants purchased this property in August of 2012, with the intention of a significant whole house renovation, including an addition. Nearly insurmountable permitting issues ensued, so the owners have scaled back the project significantly. The existing house is a cape, built in early 60's, a non-conforming structure that sits on a non-conforming lot. It is non-conforming with respect to side yard, front yard, rear yard setbacks as well as lot coverage. We propose is simply to raise the existing roof, removing what is a barely habitable space, to build on the existing frame with a new full story. It changes from a cape to roughly the same as a house across the street. In fact, what we propose is similar to many houses in the neighborhood. It improves what exists there now, and will add to the character of the existing neighborhood. The total structure will be 7 feet higher than what exists today.

My client had spoken to many abutters early on, and most were in support of this project. Initially, we were planning two dormers on the back. Then we found it was actually less expensive to raise the roof and go up with a full story. The budget is tight, which is why we propose what we are. We figure the height of the project is lower than abutters, and we are well below the zoning bylaws for height. The nearby tree is not going to be disturbed. We're staying within the existing envelope, just looking to maximize living space.

Matt Sherrill: Has letters from abutters that could not make it to the meeting.

One is to the Board of Appeals, written by Lisa Ward, 484 Main Street.

"When the Conants first bought the house on 485 Main Street, they spoke of expanding the cape with a full dormer in the back of the house, overlooking the river, to expand living space without overbuilding their small lot, which has extremely close side lot lines. Their latest proposal, with a second floor and turning it into a center entrance colonial seems to me a massive overbuilding when the front door will be approximately 10 feet from the city road property. Also, they use the front footage for off road parking anywhere from 3 to 7 cars, in an area that only has two designated parking spaces. I don't feel the proposed extension of the house is beneficial to the neighborhood.

Another letter comes from Leonard Johnson, 488 Main Street.

"Please excuse my absence, I am out of town. I object to this special permit request as an unreasonable modification of a pre-existing non-conforming structure. I am an abutter at 488 Main Street, diagonally across the street from the applicants. The structure presently blocks my views of the sunset on my first floor of my home in February and March, August and September. The proposed modifications would forever block my sunset views from the second floor of my home during those same months. The proposed expansion would be an unreasonable intrusion of the quiet enjoyment of my property. The increased height would cause our loss of sunset views, also casting shadows on the house.

I am also an abutter at 489 Main Street, which borders the Conant property on the east, or to the left while looking at the front door. Their property sits 1 1/2 feet from my property line at the

fence, and creates a brown wall 37 feet wide including the porch, by 26 feet tall. The proposed alterations would increase the size of this wall 28% from 516 square feet to 720 square feet. The addition increases the height of the structure to 39 feet, which is the height of my flagpole. I strongly suggest as a solution that the Conants consider a shed dormer on the south side facing the river. It would give them the height they need and magnificent views of the river and provide internal ventilation. It also would preserve the appealing special aspects of the house.”

Those are two letters we submit for the record. Do you wish to comment on the letters?

Scott Brown: This is a surprise to all of us. It seems they’ve both been written by abutters that are well across the street from the house. I find it hard to believe it would block light, etc. (Mr. Brown examines pictures supplied with the abutters’ letters).

I think it is in our best interest to request a continuance so we have the opportunity to reach out to the neighbors and hopefully resolve the issues amicably. Maybe we can revisit the dormer option, which is where we started out with but discovered quickly that it would be unfeasible. We can revisit this. This is a finding, not substantially more detrimental from what is already there.

Matt Sherrill: I understand it’s a finding, but that is our only basis that we can use. “Is it more detrimental to the neighborhood?” In your eyes, it is not. But when water views are involved, we have to tread on that lightly. We have run into situations before where additions block views people have had for years.

Fred Howell, 486 Main Street, Building additions/expansions have been done by many of our abutters over our many years there, without any challenges to our existing zoning laws. When they bought the house from her father, their plan was to dormer the back side of the house and build an apartment in the basement for her dad. Construction was to begin last fall. It seemed like a reasonable plan, of no concern to us. Then in late fall, their anticipated contractor was dropped and construction start up delayed. Soon we were told they had a new contractor but they were going to be required to appear before the zoning board. The house is seriously non-conforming, from the street and the side. In mid-January this year, Cindy gave us a drawing of their plans to raise the roof of the house 7 ½ feet and to change the exterior from a cape, front door entrance, making it a Colonial with more windows, which is oversized in comparison to the cape that exists. The height change diminishes our skyline views of sunsets as well as eagle activity. Cindy grew up in that house. She knows the house very well, and knew when they bought it. They knew adding height could be an issue, and the dormer option could be their solution. I fear a decrease in my own property values.

Scott Brown: This is the first time I’ve ever heard someone call a center entrance Colonial aesthetically offensive. This is a 60s cape, not an eighteenth century house.

I feel any renovation on this property improves it, as well as increasing value to abutting property. I’d like the opportunity to revisit this and attempt to approach abutters again and see if this can be worked out.

Matt Sherrill: Are you asking for a month extension to return before the board?

Scott Brown: Yes, to the next available.

Matt Sherrill: Does the board agree to a one month extension? (board is in agreement).

OK, we need you to give us a quick letter agreeing to a one month extension, just for our records.

William Murphy and Jeanne Keimig – 1 Rocky Hill Road

Filed an appeal from the failure of the building commissioner / zoning compliance officer to require the owners of the property at 428 Main Street to comply with the requirements of

both Section XI.F of the Amesbury Zoning Bylaw and the Home Occupation Special Permit which was issued by the Amesbury Zoning Board of Appeals on May 26, 2011. Paul Gagliardi, attorney representing William Murphy and Jeanne Keimig of 1 Rocky Hill Road. I've given you with our petition the chronology of letters back and forth. Originally, I'd written to the building inspector requesting that he enforce the requirements of the zoning bylaws. We felt that the area that was occupied by Crafters Quarters exceeded the 400 square feet, which is the maximum under the bylaw, that they employed more than one non-resident working there, and that the parking was causing issues for the neighborhood. Reading over the minutes of when you heard this originally, some members of the board were concerned that the space was not defined on the plans that were submitted along with the application, and as it turns out, we believe that as a result, currently the occupants at Crafters Quarters is occupying more than the 400 square feet that is allowable, despite their protest to the contrary. The board expressed concern that this would become larger than what a home occupation was designed to allow. We believe it has done exactly that. Home occupation is meant to not intrude on a residential neighborhood. But this is becoming a neighborhood problem, especially with parking. People are attending classes there and parking on Rocky Hill Road, which is very narrow, and parking on Main Street. It is adversely impacting the neighborhood. This business has made it even more congested. There are four different areas we think are in violation of bylaw and special permit. **1. Area.** The bylaw allows no more than 400 square feet. It has become a larger business than what is allowed, and is using more than the 400 square feet allowed. Assessors say there has 2646 square feet of area. I suspect most of it is used for Crafters Quarters purposes. On their website, they suggest a large space, saying 2400 square feet of usable space for their business. After the enforcement order was put out there, their website was changed, or said it was an error. But it's been on there a long time, and pointed out to them that their website claimed 2400 square feet of space. They talk about general workspace, an inspiration library, they have storage in lockers, discounts on goods bought in the studio. Everything you look at points to this being far more than classroom, a few tables and machinery, and using more than the 400 square feet allowable.

Employees: The bylaw says you can have no more than 1 non-resident employee. They will tell you they only have one employee, but they list several different instructors working in different areas of the craft. I'm sure they're all being compensated.

Parking: Initially in both the application and verbally, the representation was that they had six spaces onsite and that there was no reason for parking on Main Street or Rocky Hill Road. But people are parking on both streets. There was a representation that they would make arrangements with another property for off street parking if they had more than four people.

Selling Stock and Trade: The definition of home occupation consists of no more than one non-resident employee. It says "no stock and trade of commodities sold on the premises. Their own website says you can buy stock and trade and commodities. For all these reasons, we feel they are in violation. We ask this board to require them to comply. The building inspector did not require them to comply in his attempts, so we are asking you as the board that granted the special permit, to bring them into compliance and remain in compliance so the neighborhood is not adversely impacted.

There were no comments from the board at this time.

Joseph Finn, attorney representing Crafters Quarters this evening.

We've heard nothing but allegations to this point. Let me address **AREA:** I believe each time, the area has been inspected and agreed it was in compliance. In 2011, this complaint was first

filed. It was reviewed and inspected by the board. It was refilled in Nov. of 2012. Again, it was reviewed by the board and decided that we were in compliance. First, the area is under 400 square feet. **Employees:** there is one part time employee. They are vendors who have physical locations in other areas who have come in and taught one or two classes. They are not regular employees. **Parking:** this is an issue on Rocky Hill Road and Main Street. On the website, Crafters Quarters asks that people not park on Rocky Hill Road. There are also signs as you enter the building and as you leave the building not to park on Rocky Hill Road. That was a gesture of goodwill. They also reached out to parties complaining about parking. The last time there were more than six cars was in December 10, 2012, for a going away party, not a class. This body has inspected two times, both times being found in compliance. We ask that the board agree that there is no violation here and to dismiss it.

Selling of stock and trade: I reviewed the two previous complaints filed by the petitioner. Neither complaint addressed stock and trade. So I'd ask that issue to be dismissed. I have letters from residents who could not be here tonight, and there are several people here to speak in support of this venture.

Paul Gagliardi, attorney for petitioners: Just to clarify some comments by Attorney Finn. 1. The first time I heard from Mr. Finn to look into resolution of this was yesterday afternoon. According to my client, there has been no attempt to contact him to resolve this. 2. We're not trying to shut this business down. 3. we want the business to comply with the bylaws. 4. They have not lived up to their representation from the original meeting. 5. We're asking for the board to enforce the bylaws. We're looking for a condition that parking not be on Rocky Hill or Main Street. Otherwise, maybe this is the wrong place for this type of business.

Don Moore, 2 Rocky Hill Road: I am directly next to the old church where the business is located. I will read from a letter I received prior to the meeting that you had initially when you granted the special permit. This letter is from the business owners. They said they expect to have an average of 4 students at a time, which would easily fit in the parking spaces of our driveway. Classes would not start before 10 A.M. If we had evening classes, we'd expect them to end by 8 P.M. We don't anticipate noise issues. Quilting is pretty quiet. Well, this place is open about 6 days a week. There are classes at night, maybe 4 or 5. They go to 9:30 at times, maybe 10 P.M. In the summer, it gets noisy. I haven't seen inside to speak on the 400 square feet, but I have some pictures of what parking looks like, If the business was what was described, none of us would be here. I hope they maintain their business, but I don't think any of us imagined the disruption involved. Oftentimes, there is overflow parking. I see it every day. My main concern is the parking.

Carol Finn, 412 Main Street: On May 26, 2011, I spoke for them in favor of their business. A letter of complaints was read into the record, and asks for fairness.

Bill Murphy, 1 Rocky Hill Road: I'm one of the petitioners. It is not my objective to shut down this business. I just want to see Crafters Quarters comply with the bylaws. I'd have no issues if they had complied with the ZBA rules. I'm very disappointed that this has become such a divisive issue in the neighborhood.

Linda Wallaga, 427 Main Street: Parking is an issue. Feels it should be held to six cars.

Joe Finn, 412 Main Street: My wife and I attended the first hearing and expressed support for their application. So I feel obligated to speak as to what I heard that night and what I've seen since. The parking plan was appropriate at the time, but it has not been followed. Cars park on the street. I supported them in the beginning, but cannot support the parking violations.

Donna Scotti, 424 Main Street: Addressed the list of complaints and said parking is legal.

Supportive of the owners, feeling they have not created a problem. Feels it would be a shame if they are blamed for the parking on Rocky Hill Road and have to curtail their business.

Jensi Rogers, 428 Main Street: Runs Crafters Quarters in her home. I don't want to be a problem in the neighborhood. She asks her students not to park on Rocky Hill Road. I don't have large classes (only once over 15 people). I don't claim that the parked cars are her students. The website photos refer to a previous location. This location is much smaller. I have photos also, having started taking them since last December and I'd be happy to show you. I feel that the business is not a detriment to the community.

Rev. Marcus Lisle, co-owner: This is an unfortunate circumstance. A compromise would be to make sure that there is no one parking on Rocky Hill Road.

Dave Sims, 7 Andrews Lane: I walk my dog in the area. I see cars parked on Rocky Hill Road. I support Crafters Quarters.

Linda Labery, 2 Andrews Lane: Amesbury is growing, the evolution of the church has changed, but the church is still a meeting place. I'm very supportive of Jensi. Cars and parking are problems everywhere, not just Rocky Hill Road.

Dean Jewett, 8 Andrews Lane: There is a parking issue. Students are parking on the street. The parking lot is usually full when I get home about 7 P.M. There are constantly about 6 cars there. There is an overflow that parks on Rocky Hill Road that is impacting the neighborhood.

Ben Labery, 2 Andrews Lane: I'm not worried about a divisive issue in our neighborhood. We are a neighborhood and we'll handle this. It would be appreciated if you, as a board, would help us reach an understanding and compromise amongst ourselves so Jensi can carry on the business that you approved. Let's solve the problem without lawyers. We need guidelines.

Diane Parker, 9 Rocky Hill Road: Parking is an issue. I've lived there 40 years. Neighbors contribute to the problem. There have been home businesses up and down Main and Rocky Hill roads. I feel Crafters Quarters is the silver thread in the fabric of the neighborhood.

Brian McCloskey, 13 Pleasant Valley: I live on the extension of McKenzie's Marina. This is humorous. If only parking was our only issue in life. This is nonsense wasting time and tax payers money.

Carol McCloskey, 13 Pleasant Valley: I support this business. I'm a customer there. Her business brings business to the city.

Paul Gagliardi, attorney for Murphy and Keimig: We're not asking to close the business. Parking is a problem. We'd like Jensi to live up to what she represented in the initial application and keep the parking off the street.

Attorney Joseph Finn for the business owners: I am here pro bono representing his neighbor. People do not leave at 10 P.M. It's not noisy. Classes are small, not 15 people, rarely more than 8. We're willing to compromise with the parking. They are respectful of neighbors. They were twice investigated and twice were found in compliance. We have a letter from Sally Chandler, 417 Main Street, in support of Crafters Quarters. This business has less of an impact than previous owners. I have pictures showing parking.

Matt Sherrill read the following letters voicing opinions on this subject for the record.

Abigail Catone, 5 Andrews Lane: I support Crafters Quarters but I'm sad at this rancor.

Katherine Barkley, 6 Andrews Lane: In full support of this business. Feels there are no parking issues.

Joanne Grossi, 435 Main Street: In support of business. "No parking issue."

John and Micky Risa, 418 Main Street: The neighborhood solves problems together. We're surprised the filing was made, when simple discussion could solve the matter. We support the couple and support the business being run there.

Matt Sherrill: I am pro business. I'm all about compromise. There is an issue in the neighborhood, but we shouldn't sacrifice the businesses there. As a board, we can work this out. We can have some sort of influence on parking, but we cannot enforce parking. Rocky Hill seems to be the biggest parking problem. An issue is having a business out of a residence in the same unit. She is violating the 400 square feet allowable for a home business. We've made suggestions on how to be in compliance (after visiting the space).

The problem is not inside the building, but outside. The focus is on parking. There needs to be a neighborhood accommodation and a neighborhood issue to police. They need to clearly delineate work space on the first floor. Selling will only be for classes, and what is used by them. It is not a retail store.

Board discussion / ideas: 6 parking spots for business use. Could limit it to 6 cars. Manage parking so that no on-street parking occurs. Doesn't think it should be 6 cars on the property. Can't park on Rocky Hill Road. Can park on Main Street. A neighbor says they can park in her yard, her driveway, and in front of her house. Owners and employee should park in their side yard. Clean up the room and use less space. Tables needn't be set up at all times.

1. No more than 6 cars in the spots.
2. No one park on Rocky Hill Road.
3. Owners park in side yard, along with employee.

Paul Gagliardi, applicants attorney: I think this board does have the right to do something about the parking. You cannot enforce it, but it seems there is no question that there is a parking problem, part of which created by this business. But residential use is allowed. The boat shop predates zoning. But this business only is allowed to exist in this neighborhood because you granted them a home occupation special permit. So you do have more control over this business than any of the others mentioned. You CAN say it's a condition of this permit that your customers not park on Rocky Hill Road, on Main Street, or however you want to limit it. You have that power. The neighbors can police that. If abused, you can revoke their permit. But all we're looking for is for Jeni to live up to her initial presentation statements. Just deal with the parking.

Matt Sherrill: If you have a compromise plan, please step up to the microphone.

Joseph Finn, representing the owners: The compromise plan is what it was in the beginning.

Matt Sherrill: No. I'm not listening to it. Sorry. The board has enough information to make a decision. There are 6 parking spots on that property for vehicles to be used by the business. If we limit it to 6 cars, then no more than 6 cars at once. But how can we enforce that. The owner seems to be attempting to control parking on Rocky Hill Road by posting signs at her doorway and asking customers if they parked there, and if so, please move. Could the 6 spots be managed better? Yes. I'd be tempted to say no parking of customers on Rocky Hill, but I cannot limit parking on Main Street. The issue is on Rocky Hill. So, no more than 6 cars on the property, you cannot park on Rocky Hill Road. Other than that, I don't see what this board can do. I'm opening up for comments

I would strongly advise you, Jeni, to park in Donna Scotti's area. If you truly have only one employee should park there, also. Then inside your studio, if you rearrange and separate classroom from living space, it would be more at 400 square feet, especially if tables are not set up full time. That's all we as a board can do. If the neighborhood cannot work it out, and you

wind up here again, then the business is going to be a problem. We gave out this permit, we can revoke it. Unless the board disagrees with me, this is going to be the ruling.

Board Commissioner Osgood: I heard that the building inspector had been back down there and it was ok. But we have no documentation of that. I'd like a follow up that she get the building inspector to return there and say that they have complied. I think having a 2000 square foot footprint, and you have little spots on four sides of the room that you have allocated to your square footage is not proper. That's how it was approved, but I agree it should be put over to one side. The classes need to be done in the classroom.

It can't spill out due to lack of room. How that gets enforced, I don't know. My only other issue is, what happens when you have the occasional class that fills up your spots and people need to park on Main Street, then you have to find offsite spots. If it's three cars on Main Street, that might be reasonable, but otherwise you might park in someone's approved driveway, or have a satellite parking area.

1. No more than 6 vehicles on the property.
2. Owners and employee park in the side yard at the curb cut at 426 Main Street.
3. Maximum 3 cars on Main Street. Must find offsite parking. No parking on Rocky Hill Road.
4. Better delineation of space with a clear separate classroom. The building inspector will be told of this decision. No more than 400 square feet.
5. Selling stock only to class participants.

Appeal Response Vote:

Olyce Moore - yes

Donna Collins - yes

Matt Sherrill - yes

Sharon McDermott - yes

Ben Osgood - yes

Motion to adjourn at 10:05 p.m. by Donna Collins seconded by Sharon McDermott. All in favor

Minutes transcribed by Paul Bibaud.